



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6164-N-01]

Notice of Regulatory Waiver Requests Granted for the First Quarter of Calendar Year 2019

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly Federal Register notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous Federal Register notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on January 1, 2019 and ending on March 31, 2019.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 10276, Washington, DC 20410-0500, telephone 202-708-3055 (this is not a toll-free number). Persons with hearing- or speech- impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the first quarter of calendar year 2019.

SUPPLEMENTARY INFORMATION:

Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;
2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;
3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the Federal Register. These notices (each covering the period since the most recent previous notification) shall:
 - a. Identify the project, activity, or undertaking involved;
 - b. Describe the nature of the provision waived and the designation of the provision;
 - c. Indicate the name and title of the person who granted the waiver request;
 - d. Describe briefly the grounds for approval of the request; and
 - e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted

the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from January 1, 2019 through March 31, 2019. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the first quarter of calendar year 2019) before the next report is published (the second quarter of calendar year 2019), HUD will include any additional waivers granted for the first quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: June 12, 2019.

J. Paul Compton Jr.,
General Counsel.

Billing Code: 4210-67

APPENDIX

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development January 1, 2019 through March 31, 2019

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

- I. Regulatory waivers granted by the Office of Housing.
- II. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Housing – Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

- **Regulation:** 24 CFR 206.41.

Project/Activity: National Council on Aging HECM Financial Interview Tool No Longer Available (affects the HECM program nationally).

Nature of Requirement: The Financial Interview Tool (FIT) assists counselors in following HUD's requirements in determining the borrowers' financial status. It is a

required counseling requirement by the Commissioner under this regulation. The contract between the and NCOA for administering FIT has concluded. Therefore, HECM counselors are now prohibited from accessing FIT for purposes of providing HUD HECM counseling.

Granted by: Sarah Gerecke, Deputy Assistant Secretary.

Date Granted: February 28, 2019.

Reason Waived: NHA section 255(f) and HECM regulations at 24 CFR 206.41 address HECM counseling and require that a prospective borrower must receive adequate counseling, which involves discussions regarding options other than a reverse mortgage and financial implications. 24 CFR 214.3 defines counseling, in part, as “[c]ounselor to client assistance that addresses unique financial circumstances or housing issues [of the client] In addition, the Housing Counseling Handbook at Appendix 4, Section III. C. Step 2, states, in part, that “the counselor must create a budget using the Financial Interview Tool (FIT) Discussed in Attachment B.12 [of the Handbook] based on the client’s income, assets, debt and expenses.” Attachment B.12 [of the Handbook provides that “[c]ounselors will use the National Council on Aging’s (NCOA) web-based FIT to meet the budget requirement.” The contract between the Department and NCOA for administering FIT expired on January 8, 2018. Therefore, HECM counselors are now prohibited from accessing FIT for purposes of providing HUD HECM counseling. As a result, OHC needs to waive the above-referenced Handbook provisions which mandate the use of FIT. HECM counselors must, however, continue to meet all other statutory and

regulatory counseling requirements and policies as clarified in the Handbooks, such as creating a budget.

Contact: John Olmstead, Senior Housing Program Manager, Office of Policy and Grant Administration, Office of Housing, Department of Housing and Urban Development, Norris Cotton Federal Building, 275 Chestnut Street, 4th Floor; Manchester, NH 03101-2487, telephone (802) 238-9003.

- **Regulation:** 24 CFR 219.220(b).

Project/Activity: Westminster Village, FHA Project Number 083-44016, Lexington, KY. Westminster Kentucky, LLC (Owner) seeks approval to defer repayment of the Flexible Subsidy Operating Assistance Loan on the subject project.

Nature of Requirement: The regulation at 24 CFR 219.220(b) (1995), which governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Properties, states “Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project.”

Granted by: Brian D. Montgomery, Assistant Secretary for Housing – Federal Housing Commissioner.

Date Granted: March 15, 2019.

Reason Waived: The owner requested and was granted waiver of the requirement to repay the Flexible Subsidy Operating Assistance Loan in full when it became due. Deferring the loan payment will preserve the affordable housing resource for an additional 40 years through the execution and recordation of a Rental Use Agreement.

Contact: Munir Malik, Account Executive, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 8236, Washington, DC 20410, telephone (202) 402-7589.

- **Regulation:** 24 CFR 266.200(b)(2).

Project/Activity: The Massachusetts Housing Finance Agency (MassHousing) requested a waiver of certain provisions of the 542(c) Housing Finance Agency (HFA) Risk Sharing Program. The Department approved the request for forty (40) mortgages insured under the Section 542(c) HFA Risk Sharing Program for fiscal year 2019 (i.e., HUD issuance of a firm approval letter by September 30, 2019), Mass Housing, Boston, Massachusetts, no project names listed.

Nature of Requirement: The Waiver of 24 CFR 266.200(b)(2), Substantial Rehabilitation. Substantial rehabilitation is defined as any combination of the following work to an existing facility of a project that aggregates to at least 15 percent of the project's value after the rehabilitation and that results in material improvement of the project's economic life, livability, marketability, and profitability. The Department will permit the revised definition of substantial rehabilitation (S/R) as described in the revised MAP Guide published on January 29, 2016, such that S/R is: any scope of work that either a) Exceeds in aggregate cost a sum equal to the 'base per dwelling unit limit' times the applicable *High Cost Factor, or b) Replacement of two or more building systems. 'Replacement' is when the cost of replacement work exceeds 50 percent of the cost of replacing the entire system.

*The High Cost Factors for 2017 were published through a Housing Notice (HN) on August 31, 2017, and the revised statutory limits were recently published in the Federal Register

on November 7, 2017. The 2017 base dwelling unit amount to determine substantial rehabilitation for FHA insured loan programs has been increased from \$15,000 (changed from \$6,500 per unit in the 2016 MAP guide) to \$15,315. This amount will change annually based upon the change in the annual Consumer Price Index (CPI), along with the statutory limits or other inflation cost index published by HUD.

The regulatory waiver is subject to the following conditions:

1. The waiver is limited to forty (40) projects and expires on September 30, 2019 for waiver request related to regulation 24 CFR 266.200 (b)(2).
2. MassHousing must elect to take 50 percent or more of the risk of loss on all transactions;
3. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents;
4. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225;
5. MassHousing must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions;
6. The loans exceeding \$50 million require a separate waiver request;
7. Occupancy is no less than 93 percent for previous 12 months;
8. No defaults in the last 12 months of the HFA loan to be refinanced;
9. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition;
10. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and
11. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:

a: Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and b: In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012-14 – Use of “New Regulation” Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time MassHousing determines that a project’s excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, MassHousing must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract’s termination must be returned.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing- Federal Housing Commissioner.

Date Granted: February 7, 2019.

Reason Waived: Granted waivers of certain provisions under the 542(c) HFA Risk-Sharing Program regulations for forty (40) mortgages through the fiscal year 2019. The waiver, under the Risk Sharing Program will provide more competitive financing options for developers and continue to create and preserve affordable housing in the State of Massachusetts.

Contact: Patricia M. Burke, Acting Director, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6130, Washington, DC 20410-8000, telephone (202) 402-5693.

- **Regulation:** 24 CFR 266.200(c)(2).

Project/Activity: The Massachusetts Housing Finance Agency (MassHousing), Risk Sharing Program, Equity Take Outs. Boston, Massachusetts, no project names listed.

Nature of Requirements: The Department requires, in 24 CFR 266.200(c)(2), Existing Project “Equity Take-out”, that the refinancing of HFA refinance loan is permissible if the preservation is the result, with certain conditions: 1) occupancy at least 93 percent for previous 12 months; 2) underwrite to the lower of Section 8 or market rents; 3) no equity take-outs: risk sharing loan cannot exceed sum of existing indebtedness, cost of repairs, and transaction costs; 4) no defaults in the last 12 months of HFA loans.

The waiver of 24 CFR 266.200(c)(2) would permit equity take-outs for any existing property, including both MassHousing-financed developments and those outside of MassHousing’s portfolio, to be refinanced by MassHousing, where MassHousing and HUD split the risk of loss 50/50.

The regulatory waiver is subject to the following conditions:

1. The waiver is limited to forty (40) projects and expires on September 30, 2019 for waiver request related to regulation 24 CFR 266.200(c)(2).
2. MassHousing must elect to take 50 percent or more of the risk of loss on all transactions;
3. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents;
4. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225.
5. MassHousing must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions;

6. The loans exceeding \$50 million require a separate waiver request;
7. Occupancy is no less than 93 percent for previous 12 months;
8. No defaults in the last 12 months of the HFA loan to be refinanced;
9. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition;
10. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and
11. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:
 - a: Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and b: In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012-14 – Use of “New Regulation” Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time MassHousing determines that a project’s excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, MassHousing must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract’s termination must be returned.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 7, 2019.

Reason Waived: The waiver would provide more competitive financing options for developers and to continue to create and preserve affordable housing in the State of Massachusetts.

Contact: Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

- **Regulation:** 24 CFR 266.410(e).

Project/Activity: Mortgage Provisions “Amortization. requires that the mortgage must provide for complete amortization (i.e. regularly amortizing) over the term of the mortgage. The waiver would permit balloon mortgages with a minimum term of 17 years with a maximum amortization period of up to 40 years.

Nature of Requirement: The 24 CFR 266.410(e), which “requires mortgages insured under the 542(c) Housing Finance Agency Risk Sharing Program to be fully amortized over the term of the mortgage....” The waiver would permit MassHousing to use balloon loans that would have a minimum term of 17 years and a maximum amortization period of 40 years.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 7, 2019.

Reason Waived: The waiver was granted to allow Mass Housing’s clients additional financing options to their customers and to align Mass Housing business practices with industry standards. The waiver would permit MassHousing the ability to offer balloon mortgages with a minimum term of 17 years for 50/50 risk sharing transactions. This waiver is effective from the

date of issuance. The waiver has no time limit. The regulatory waiver is subject to the following conditions:

1. The waiver is limited to ten (10) projects with no time limit.
2. MassHousing must elect to take 50 percent or more of the risk of loss on all transactions;
3. Mortgages made under this waiver may have amortization periods of up to 40 years, but with a minimum of 17 years;
4. All other requirements of 24CFR 266.410- Mortgage Provision remain applicable. The waiver is applicable only to loans made under MassHousing's Risk Sharing Agreement.
5. In accordance with 24CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents;
6. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225;
7. MassHousing must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions;
8. The loans exceeding \$50 million require a separate waiver request;
9. Occupancy is no less than 93 percent for previous 12 months;
10. No defaults in the last 12 months of the HFA loan to be refinanced;
11. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition;
12. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and
13. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:
 - a: Owner agrees to renew HAP contract(s) for 20-year term, (subject to

appropriations and statutory authorization, etc.), and b: In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012-14 – Use of “New Regulation” Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time MassHousing determines that a project’s excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, MassHousing must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract’s termination must be returned.

Contact: Patricia M. Burke, Acting Director, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

- **Regulation:** 24 CFR 266.410(e).

Project/Activity: Minnesota Housing Finance Agency (Minnesota Housing), Mortgage Provisions “Amortization: that the mortgage must provide for complete amortization (i.e. regularly amortizing) over the term of the mortgage. Minnesota Housing Finance Agency, (Minnesota Housing) Saint Paul, Minnesota, no project name listed.

Nature of Requirement : The 24 CFR 266.410(e), which “requires mortgages insured under the 542(c) Housing Finance Agency Risk Sharing Program to be fully amortized over the

term of the mortgage....” The waiver would permit Minnesota Housing to use balloon loans that would have a minimum term of 17 years and a maximum amortization period of 40 years.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 7, 2019.

Reason Waived: The waiver was granted to allow Minnesota Housing’s clients additional financing options to their customers and to align Minnesota Housing business practices with industry standards. The waiver would permit Minnesota Housing the ability to offer balloon mortgages with a minimum term of 17 years for 50/50 risk sharing transactions. This waiver is effective from the date of issuance. The waiver expires on December 31, 2020. The regulatory waiver is subject to the following conditions:

1. The waiver is limited to twenty (20) refinance transactions, ten (10) substantial rehabilitation transactions and ten (10) new construction transactions and expires on December 31, 2020.
2. Minnesota Housing must elect to take 50 percent or more of the risk of loss on all transactions;
3. Mortgages made under this waiver may have amortization periods of up to 40 years, but with a minimum of 17 years;
4. All other requirements of 24 CFR 266.410- Mortgage Provision remain applicable. The waiver is applicable only to loans made under Minnesota Housing’s Risk Sharing Agreement.
5. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents;

6. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225;
7. Minnesota Housing must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions;
8. The loans exceeding \$50 million require a separate waiver request;
9. Occupancy is no less than 93 percent for previous 12 months;
10. No defaults in the last 12 months of the HFA loan to be refinanced;
11. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition;
12. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and
13. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:
 - a: Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and b: In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012-14 – Use of “New Regulation” Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time Minnesota Housing determines that a project’s excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, Minnesota Housing must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any

unused funds remaining in the Residual Receipt Account at the time of the contract's termination must be returned.

Contact: Patricia M. Burke, Acting Director, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

- **Regulation:** 24 CFR 266.200(b)(2).

Project/Activity: Rhode Island Housing and Mortgage Finance Corporation (RIHousing), a waiver of certain provisions of the 542(c) Housing Finance Agency (HFA) Risk Sharing Program. The Department's approval request for a total of thirty-six (36) projects which includes twelve (12) projects identified in the Pipeline provided for mortgages insured under the 542(c) HFA Risk Sharing Program. Providence, RI.

Nature of Requirement: The Waiver of 24 CFR 266.200(b)(2), Substantial Rehabilitation. Substantial Rehabilitation is defined as any combination of the following work to an existing facility of a project that aggregates to at least 15 percent of the project's value after the rehabilitation and that results in material improvements of the project's economic life, livability, marketability, and profitability. The Department will permit the revised definition of substantial rehabilitation (S/R) as described in the Revised MAP Guide published on January 29, 2016, such that S/R is: any scope of work that either a) Exceeds in aggregate cost a sum equal to the 'base per dwelling unit limit' times the applicable *High Cost Factor, or b) Replacement of two or more building systems. 'Replacement' is when the cost of replacement work exceeds 50 percent of the cost of replacing the entire system.

*The High Cost Factors for 2017 were published through a Housing Notice (HN) on August 31, 2017, and the revised statutory limits were recently published in the Federal Register on November 7, 2017. The 2017 base dwelling unit amount to determine substantial rehabilitation for FHA insured loan programs has been increased from \$15,000 (changed from \$6,500 per unit in the 2016 MAP guide) to \$15,315. This amount will change annually based upon the change in the annual Consumer Price Index (CPI), along with the statutory limits or other inflation cost index published by HUD.

The regulatory waiver is subject to the following conditions:

1. The waiver is limited to thirty-six (36) projects and expires on December 31, 2021 for waiver request related to regulation 24 CFR 266.200 (b)(2).
2. RIHousing must elect to take 50 percent or more of the risk of loss on all transactions;
3. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents;
4. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225;
5. RIHousing must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions;
6. The loans exceeding \$50 million require a separate waiver request;
7. Occupancy is no less than 93 percent for previous 12 months;
8. No defaults in the last 12 months of the HFA loan to be refinanced;
9. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition;
10. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed

for all necessary repairs, and reserves funded for future capital needs; and

11. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:

a: owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and b: In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012-14 – Use of “New Regulation” Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time RIHousing determines that a project’s excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, RIHousing must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract’s termination must be returned.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing- Federal Housing Commissioner.

Date Granted: February 7, 2019.

Reason Waived: Granted waivers of certain provisions under the 542(c) HFA Risk-Sharing Program regulations for thirty-six (36) projects which includes twelve (12) projects identified in the Pipeline provided for mortgages under the 5429(c)HFA Risk Sharing Program. The waiver will expire on December 31, 2021. The waiver, under the Risk Sharing Program will

provide more competitive financing options for developers and continue to create and preserve affordable housing in the State of Rhode Island.

Contact: Patricia M. Burke, Acting Director, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

- **Regulation:** 24 CFR 266.200(c)(2).

Project/Activity: The Rhode Island Housing and mortgage Finance Corporation (RIHousing), Risk Sharing Program, Equity Take Outs. Providence, Rhode Island.

The Department requires, in 24 CFR 266.200(c)(2), Existing Project “Equity Take-out”, that the refinancing of HFA refinance loan is permissible if the preservation is the result, with certain conditions: 1) occupancy at least 93 percent for previous 12 months; 2) underwrite to the lower of Section 8 or market rents; 3) no equity take-outs: risk sharing loan cannot exceed sum of existing indebtedness, cost of repairs, and transaction costs; 4) no defaults in the last 12 months of HFA loans.

Nature of Requirements: The waiver of 24 CFR 266.200(c)(2) would permit equity take-outs of the RIHousing financed project and those outside of RIHousing ‘s portfolio resulting in preservation where the insured mortgage exceeds the sum of the total cost of acquisition, cost of financing, cost of repairs, and reasonable transaction cost, or “equity take-out” risk sharing refinancing where RIHousing and HUD split the risk of loss 50/50.

The regulatory waiver is subject to the following conditions:

1. The waiver is limited to thirty-six (36) projects and expires on December 31, 2021 for waiver request related to regulation 24 CFR 266.200 (c)(2).

2. RIHousing must elect to take 50 percent or more of the risk of loss on all transactions;
3. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents;
4. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225;
5. RIHousing must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions;
6. The loans exceeding \$50 million require a separate waiver request;
7. Occupancy is no less than 93 percent for previous 12 months;
8. No defaults in the last 12 months of the HFA loan to be refinanced;
9. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition;
10. A Property Capital Needs Assessment (PCNA) must be performed and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and
11. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:
 - a: Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and b: In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012-14 – Use of “New Regulation” Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time RIHousing determines that a project’s excess funds (surplus cash) after project operations, reserve requirements and permitted distributions are met, RIHousing must place the excess funds into a separate interest-bearing account. Upon renewal

of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract's termination must be returned.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner H

Date Granted: February 7, 2019.

Reason Waived: Under 542(c) Housing Financing Agency (HFA) Risk Sharing Program, will create and preserve affordable housing in the State of Rhode Island.

Contact: Patricia M. Burke, Acting Director, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6130, Washington, DC 20410, telephone (202) 402-5693.

II. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

- **Regulation:** 24 CFR § 983.354(a).

Project/Activity: Revitz House Corporation c/o Hebrew Home of greater Washington, Inc. in Rockville, Maryland, requested a waiver of 24 CFR §983.354(a) to allow low income residents of Revitz House to receive Project-Based Voucher (PBV) rental assistance and participate in the mandatory meals program.

Nature of Requirement: The regulation 24 CFR § 983.354(a) states that except as provided in paragraph (a)(2) of this section, the owner may not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy. 24 CFR § 983.354(a) (2) states that in assisted living developments receiving project-based assistance, owners may charge tenants, family members, or both for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of reasonable rent. Non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Granted By: Dominique Blom, General Deputy Assistant Secretary.

Date Granted: February 19, 2019.

Reason Waived: Revitz House's Section 236 loan matures on April 1, 2019 and will be applying for Tenant-Protection Set-Aside funding in the form of PBV assistance under PIH Notice 2018-02. Revitz House has had a long-standing mandatory meals program, which was allowed under the Section 236 program. However, the PBV rules do not allow for such a provision. It was determined that it would be financially infeasible to convert an existing mandatory meals program to a voluntary program which would in turn increase the cost of the meals program for those residents who choose to stay. Because the residents live on a fixed income, such a cost increase would make the program cost-prohibitive and likely cause the program to end. Without the program, resident's health would be at risk because many of them are unable to prepare meals themselves.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing,

Department of Housing and Urban Development, 451 Seventh St., SW, Room 4216,
Washington, DC 20410, telephone (202) 708-0477.

- **Regulation:** 24 CFR § 982.633(a).

Project/Activity: Belmont Housing Authority in Buffalo, New York requested a waiver of 24 CFR § 982.633(a) to allow the PHA to continue paying homeownership assistance payments for a family unable to live in the unit.

Nature of Requirement: The regulation at 24 CFR § 982.633(a) states that homeownership assistance may only be paid while the family is residing in the home.

Granted By: Dominique Blom, General Deputy Assistant Secretary

Date Granted: February 25, 2019

Reason Waived: The waiver was approved because it is consistent with the Department's position of approving similar waivers for unforeseen circumstances, such as disasters.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St., SW, Room 4216, Washington, DC 20410, telephone (202) 708-0477.

- **Regulation:** 24 CFR § 982.161(a).

Project/Activity: The Brown County Housing Authority in Green Bay, Wisconsin requested a waiver of 24 CFR § 982.161(a) due to a conflict of interest.

Nature of Requirement: The regulation 24 CFR § 982.161(a) states that neither the public housing agency (PHA) nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the HCV program with any present or former member or officer of the PHA (except a participant commissioner) during tenure or for one year thereafter.

Granted By: Dominique Blom, General Deputy Assistant Secretary.

Date Granted: March 8, 2019.

Reason Waived: This waiver was approved to prevent hardship of requiring the family to move, particularly upon uncertainty of finding a unit in the same neighborhood or potentially losing the housing assistance which covers the rent in its entirety.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St., SW, Room 4216, Washington, DC 20410, telephone (202) 708-0477.

- **Regulation:** 24 CFR § 983.152(c) pursuant to 24 CFR 5.110.

Project/Activity: The Housing and Redevelopment Authority of Duluth of Minnesota, in Duluth, Minnesota, requested a waiver of 24 CFR § 983.152(c)

Nature of Requirement: The regulation 24 CFR § 983.152(c) prohibits a PHA from entering into an Agreement to enter into a Housing Assistance Payment (HAP) contract with an owner if the owner has commenced construction or rehabilitation activity after submitting the Project-based Voucher (PBV) proposal.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: February 13, 2019.

Reason Waived: This waiver was approved due to compelling and unique circumstances that resulted in the PHA and owner failing to execute the AHAP prior to commencing construction.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St., SW, Room 4216, Washington, DC 20410, telephone (202) 708-0477.

- **Regulation:** 24 CFR §982.161(a) and 24 CFR §982.161(c).

Project/Activity: The Eagle Pass Housing Authority in Eagle Pass, Texas, requested a waiver of 24 CFR §982.161(c), because of a potential conflict of interest with an immediate family member of a local public official.

Nature of Requirement: The regulation 24 CFR §982.161(a), states that any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the program, may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract during tenure or one year thereafter. This includes the interest of an immediate family member, including a parent, of the covered individual.

Granted By: Dominique Blom, General Deputy Assistant Secretary.

Date Granted: March 27, 2019.

Reason Waived: This waiver was approved to allow units to remain on the program and prevent hardship of requiring the family to move, particularly upon uncertainty of finding a unit in the same neighborhood or potentially losing the housing assistance which covers the rent in its entirety.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St., SW, Room 4216, Washington, DC 20410, telephone (202) 708-0477.

- **Regulation:** 24 CFR § 983.301(f)(2)(ii) and 24 CFR §982.517.

Project/Activity: The Housing Authority of the County of Contra Costa in Martinez, California, requested a waiver from HUD to allow for the use of a site-specific utility allowance.

Nature of Requirement: The regulation 24 CFR § 983.301(f)(2)(ii) states that “The same PHA utility allowance schedule applies to both the tenant-based and PBV programs”. The regulation 24 CFR §982.517 requires that the utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy conservative households using normal patterns of consumption for the community as a whole.

Granted By: Dominique Blom, General Deputy Assistant Secretary.

Date Granted: February 13, 2019.

Reason Waived: This waiver was approved because it was determined based on the information submitted, the utility allowances as currently calculated, would be excessive thus discouraging conservation and efficient use of HAP funds.

Contact: Becky Primeaux, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St., SW, Room 4216, Washington, DC 20410, telephone (202) 708-0477.

- **Regulation:** 24 CFR 905.400(i)(5)(i).

Project/Activity: Housing Authority of Indiana County (HAIC), PA.

Nature of Requirement: The housing authority is requesting a waiver of 24 CFR 905.400(i)(5)(i) for several First Increment Replacement Housing Factor (RHF) grants.

Granted By: Dominique Blom, General Deputy Assistant Secretary.

Date Granted: March 8, 2019.

Reason Waived: The current regulation requires that the housing authority use RHF grant funds for the development of replacement housing only. Consequently, RHF cannot be used for any modernization activities unless the Department grants a waiver for good cause. The housing authority is not able to use RHF funds, totaling \$139,280, to acquire residential units due to market conditions. HAIC administers 158 Public Housing units. Rather than returning the funds, the housing authority would like to use the RHF grants for security cameras and lighting. In accordance with 24 CFR 5.110, good cause has been determined, and hereby approve the housing authority's request for a waiver to use funds to pay for modernization work.

Contact: David Fleischman, Director, Office of Capital Program Division. Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh St., SW, Room, Washington, DC 20410, telephone (202) 402-2071.

- **Regulation:** 24 CFR 902.

Project/Activity: Housing Authority of Springfield (FL035).

Nature of Requirement: The regulation establishes guidelines to determine whether a public housing authority or agency (PHA) is meeting the standard of decent, safe, sanitary housing in good repair (DSS/GR). It is incumbent upon the Department to ensure that living conditions of occupied units are within regulation compliance.

Granted By: Dominique Blom, General Deputy Assistant Secretary.

Date Granted: February 6, 2019.

Reason Waived: The Housing Authority of Springfield (HA) requested assistance under “Relief from HUD Requirements Available to PHAs During CY 2018 to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Disasters,” FR-6050-N-02. The HA incurred damages resulted from Hurricane Michael and is within the Bay County of the applicable Major Disaster Declaration. The Housing Authority of Springfield serves Public Housing and Housing Choice Voucher families in Florida.

Contact: Dee Ann R. Walker, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW, Suite 100, Washington, DC 20410, telephone (202) 475-7908.

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